

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

JAMES S. DEW, et al.,

Plaintiffs,

v.

E.I. DU PONT DE NEMOURS AND
COMPANY, et al.,

Defendants.

Case No. 5:18-cv-0073-D

JAMES O'BRIEN, et al.

Plaintiffs,

v.

E.I. DU PONT DE NEMOURS AND
COMPANY, et al.

Case No. 5:20-CV-00208-D

PLAINTIFFS' APPENDIX TO LOCAL CIVIL RULE 56.1

STATEMENT OF MATERIAL FACTS

1. Attached as **Exhibit 1** is a true and correct copy of the Warranty Deed indicating the Abrils' ownership of 4216 Marshwood Lake Road, Fayetteville, North Carolina, produced in this litigation as DEW-ABRIL_P&S-000060.

2. Attached as **Exhibit 2** is a true and correct copy of pages 1, 15, 16, and 20 of the deposition of Paul Abril taken on December 2, 2022.

3. Attached as **Exhibit 3** is a true and correct copy of Defendants The Chemours Company and Chemours FC, LLC's Responses to Plaintiffs Paul Abril and Socorra Abril's First Set of Requests for Admission, dated May 18, 2023.

4. Attached as **Exhibit 4** is a true and correct copy of the Expert Report of David L. Duncklee, P.G., dated July 24, 2023.

5. Attached as **Exhibit 5** is a true and correct copy of the Expert Report of David Genereux, Ph.D., dated July 25, 2023.

6. Attached as **Exhibit 6** is a true and correct copy of the Warranty Deed indicating the Davis's ownership of 7242 Fire Department Road, Hope Mills, North Carolina, produced in this litigation as DEW-DAVIS_R&P-000006-7.

7. Attached as **Exhibit 7** is a true and correct copy of pages 1, 16, 17, and 18 of the deposition of Patsy Canady Davis taken on November 30, 2022.

8. Attached as **Exhibit 8** are true and correct copies of correspondence between Pat Davis and North Carolina Department of Environmental Quality regarding the testing of the Davis's well. This document was produced in this litigation as DEW-DAVIS_R&P-000059-71; 000099-101.

9. Attached as **Exhibit 9** is a true and correct copy of the Warranty Deed indicating Ms. Faircloth's purchase of 3884 Tranquility Road in 2007, produced in this litigation as DEW-FAIRCLOTH_C-000051-53.

10. Attached as **Exhibit 10** is a true and correct copy of the current Warranty Deed indicating Ms. Faircloth's current ownership of 3884 Tranquility Road. This document was produced as DEW-FAIRCLOTH_C-000114-16.

11. Attached as **Exhibit 11** is a true and correct copy of Cynthia Faircloth's Plaintiff Fact Sheet submitted in this litigation.

12. Attached as **Exhibit 12** is a true and correct copy of Defendants The Chemours Company and Chemours FC, LLC's Responses to Plaintiff Cynthia Faircloth's First Set of Requests for Admission, dated May 18, 2023.

13. Attached as **Exhibit 13** is a true and correct copy of the Warranty Deed indicating Ms. Pini's ownership of 4216 Marshwood Lake Road, Fayetteville, North Carolina, produced in this litigation as OBRIEN-PINI_A-000027-29.

14. Attached as **Exhibit 14** is a true and correct copy of pages 1, 17, and 24 of the deposition of Allison Pini taken on October 19, 2022.

15. Attached as **Exhibit 15** is a true and correct copy of Defendants The Chemours Company and Chemours FC, LLC's Responses to Plaintiff Allison Pini's First Set of Requests for Admission, dated May 18, 2023.

16. Attached as **Exhibit 16** is a true and correct copy of pages 1, 27, 28, 29, 30, 34, 37, 46, 63, 84, 85 of the deposition of Sandra Branch taken on November 11, 2022.

17. Attached as **Exhibit 17** is a true and correct copy of the Warranty Deed indicating Ms. Riggins-Branch's ownership of 37 West Shaw Mill Road, produced in this litigation as OBRIEN-BRA_S-000007-8.

18. Attached as **Exhibit 18** is a true and correct copy of the Warranty Deed indicating Ms. Riggins-Branch's ownership of 21 West Shaw Mill Road, produced in this litigation as OBRIEN-BRA_S-000001-2.

19. Attached as **Exhibit 19** is a true and correct copy of Defendants The Chemours Company and Chemours FC, LLC's Responses to Plaintiff Sandra Riggins Branch's First Set of Requests for Admission, dated May 18, 2023.

20. Attached as **Exhibit 20** is a true and correct copy of the Warranty Deed indicating John and Annie Stevens' purchase of 7619 Highway 87 South, produced in this litigation as DEW-STEVENES_J&A-000478-480.

21. Attached as **Exhibit 21** is a true and correct copy of the Warranty Deed indicating John and Annie Stevens' current ownership of 7619 Highway 87 South, produced in this litigation as DEW-STEVENES_J&A-000615-618.

22. Attached as **Exhibit 22** is a true and correct copy of pages 1, 17, 21-23, of the deposition of John Stevens taken on December 7, 2022.

23. Attached as **Exhibit 23** is a true and correct copy of Defendants The Chemours Company and Chemours FC, LLC's Responses to Plaintiffs John and Annie Merle Stevens' First Set of Requests for Admission, dated May 18, 2023.

24. Attached as **Exhibit 24** is a true and correct copy of the Expert Report of Dr. Owen William Duckworth dated July 25, 2023.

25. Attached as **Exhibit 25** is a true and correct copy of pages 1, 11, 13, 274, and 400 of the 30(b)(6) deposition of Shawn A. Gannon, Ph.D. taken on June 21, 2023.

26. Attached as **Exhibit 26** is a true and correct copy of a Chemours document titled “Fayetteville Process Overview,” dated February 12, 2020, produced in this litigation as Carey-CHEM-00328652 through 8686.

27. Attached as **Exhibit 27** is a true and correct copy of the Expert Report of Ruth Albright, P.E., dated July 2023.

28. Attached as **Exhibit 28** is a true and correct copy of a document produced by Chemours titled “Corrective Action Plan, Chemours Fayetteville Works” dated December 2019, produced in this litigation as Carey-CHEM-00301670 through 1782.

29. Attached as **Exhibit 29** is a true and correct copy of the Expert Report of Jamie C. DeWitt, Ph.D., dated July 16, 2023.

30. Attached as **Exhibit 30** is a true and correct copy of the deposition of Defendants’ expert Brent L. Finley, Ph.D., DABT taken on November 20, 2023.

31. Attached as **Exhibit 31** is a true and correct copy of EPA’s “Drinking Water Health Advisory: Hexafluoropropylene Oxide (HFPO) Dimer Acid (CASRN

13252-13-6) and HFPO Dimer Acid Ammonium Salt (CASRN 62037-80-3), Also Known as ‘GenX Chemicals,’” dated June 2022.

32. Attached as **Exhibit 32** is a true and correct copy of the Amended Expert Report of J.R. Flanders, Defendants’ expert, dated October 2023.

33. Attached as **Exhibit 33** is a true and correct excerpt of Division of Air Quality testing results from the weeks of July 18-August 1, 2023. The complete document may also be located online at <https://edocs.deq.nc.gov/WaterResources/DocView.aspx?id=2923016&dbid=0&repo=WaterResources> (last accessed 2/9/2024).

34. Attached as **Exhibit 34** is a true and correct copy of a letter to Plaintiff Abril dated 9/13/2022, produced by Chemours in this litigation as Carey-CHEM-00482710 through 2722.

35. Attached as **Exhibit 35** is a true and correct copy of a letter to Plaintiff Cynthia Faircloth dated 1.14.2020, produced in this litigation as Dew-FAIRCLOTH_C-000004 through 10.

36. Attached as **Exhibit 36** is a true and correct copy of a letter to Plaintiff Sandra Riggins dated 9/13/2019, produced by Chemours in this litigation as Dew-CHEM-00483039 through 3046.

37. Attached as **Exhibit 37** is a true and correct copy of a letter to Plaintiff Allison Pini dated 2/24/2021, produced by Chemours in this litigation as Dew-CHEM-00483291 through 3302.

38. Attached as **Exhibit 38** is a true and correct copy of Defendant EIDP, INC's Responses to Plaintiffs' First Set of Requests for Admission, dated May 22, 2023.

39. Attached as **Exhibit 39** is a true and correct copy of Defendants The Chemours Company and The Chemours Company FC, LLC's Answers to Plaintiffs' First Set of Requests for Admission, dated May 22, 2023.

40. Attached as **Exhibit 40** is a true and correct copy of Defendants The Chemours Company FC, LLC's Responses to Plaintiffs' First Set of Requests for Admission, dated December 16, 2019, from *Carey, et al. v. E.I. Du Pont de Nemours and Company, et al.*

41. Attached as **Exhibit 41** is a true and correct copy of Defendant E.I. DuPont de Nemours and Company's Responses to Plaintiffs' First Set of Requests for Admission, dated December 16, 2019, from *Carey, et al. v. E.I. Du Pont de Nemours and Company, et al.*

42. Attached as **Exhibit 42** is a true and correct copy of the Expert Report of Mark A. Travers, Defendants' expert, dated September 18, 2023.

43. Attached as **Exhibit 43** is a true and correct copy of pages 1, 80, 167-177 of the deposition of Defendants' corporate representative Sathya Yalvigi taken on June 12, 2023.

44. Attached as **Exhibit 44** is a true and correct copy of pages 1, 30, 35-37 of the deposition of Defendants' expert Mark A. Travers taken on December 11, 2023.

45. Attached as **Exhibit 45** is a true and correct copy of pages 1, 25, 143-147 of the deposition of Defendants' expert John Robert Flanders taken on December 7, 2023.

46. Attached as **Exhibit 46** is a true and correct copy of an email dated February 6, 2024, from Defendants' attorney Britta Stamps Todd to Plaintiffs' attorney Brett Land.

47. Attached as **Exhibit 47** is a true and correct copy of a Chemours slide deck to NCDEQ, titled "Consent Order Paragraph 18 On and Offsite Assessment NCDEQ Comments Meeting," dated March 26, 2021.

48. Attached as **Exhibit 48** is a true and correct copy of "On and Offsite Assessment, Chemours Fayetteville Works," prepared for The Chemours Company FC, LLC, dated September 30, 2019, produced in this litigation as Carey-CHEM-00199856 – 933.

49. Attached as **Exhibit 49** is a true and correct copy of pages 1, 9, 10, 14, 48, 53, 54, 60-63, 107-108, and Russell Exhibit 19, from the deposition of Defendants' corporate representative Shawn Gannon taken on November 7, 2023.

50. Attached as **Exhibit 50** is a true and correct copy of an email exchange between Chemours employees, produced by Chemours as Carey-CHEM-00588543-44.

51. Attached as **Exhibit 51** is a true and correct copy of certain pages of a consolidated transcript of a deposition of DuPont employee Craig Skaggs on March 6, 2002, in a different matter. The document was produced by Defendants as AFFF-MDL-EID-00162392 through 411.

52. Attached as **Exhibit 52** is a true and correct copy of a document titled "C-8 Meeting Summary," dated 5/22/1984. The document was produced by Defendants as AFFF-MDL-EID-00166738 through 749.

53. Attached as **Exhibit 53** is a true and correct copy of a document titled "C-8 Control Program," dated 7/7/1987. The document was produced by Defendants as Carey-EID-00150069 through 071.

54. Attached as **Exhibit 54** is a true and correct copy of a document produced in this litigation as Carey-EID-00154713 through 4714.

55. Attached as **Exhibit 55** is a true and correct copy of pages 1, 2, 38-42 from the deposition of Defendants' employee Andrew S. Hartten taken on August 15, 2023, in this litigation.

56. Attached as **Exhibit 56** is a true and correct copy of a document produced in this litigation by Defendants, dated January 19, 2006, with a bates stamp of Carey-EID-00666038 through 40.

57. Attached as **Exhibit 57** is a true and correct copy of a document produced in this litigation by Defendants, dated April 19, 2007, titled Deposition Modeling Analysis of C8 Emissions, DuPont Fayetteville, North Carolina Facility, with a bates stamp of Carey-EID-00672681 through 94.

58. Attached as **Exhibit 58** is a true and correct copy of a document produced in this litigation by Defendants, dated August 29, 1984, titled "Summary of C-8 in Water Sampling Program," produced in this litigation as Carey-EID-00156411 through 416.

59. Attached as **Exhibit 59** is a true and correct copy of a document produced in this litigation by Defendants, dated November 23, 1982, titled "Scrubbing of Fine Powder Dryer Exhausts," produced as AFFF-MDL-EID-00156486 through 87.

60. Attached as **Exhibit 60** is a true and correct copy of a document produced in this litigation by Defendants, dated October 21, 1983, titled “C-8 Environmental Status,” produced as Carey-EID-01312455 through 469.

61. Attached as **Exhibit 61** is a true and correct copy of a document produced in this litigation by Defendants, titled “Fayetteville Op-Ed,” produced as Carey-EID-00139162.

62. Attached as **Exhibit 62** is a true and correct copy of a document produced in this litigation as Carey-EID-00203402 through 405.

63. Attached as **Exhibit 63** is a true and correct copy of the expert report of Plaintiffs’ expert, Dr. Richard L. DeGrandchamp, dated July 25, 2023.

64. Attached as **Exhibit 64** is a true and correct copy of a document produced in this litigation as Carey-CHEM-00709377 through 378.

65. Attached as **Exhibit 65** is a true and correct copy of a document produced in this litigation as Carey-CHEM-00279636 through 639.

66. Attached as **Exhibit 66** is a true and correct copy of a document produced in this litigation as Carey-CHEM-01328959 through 9178.

67. Attached as **Exhibit 67** is a true and correct copy of a May 14, 1982, DuPont document titled Medical Record Review of HFPO Workers, accessed at <https://www.regulations.gov/document/EPA-HQ-OPPT-2021-0910-0013>.

68. Attached as **Exhibit 68** is a true and correct copy of a document produced in this litigation as Carey-EID-00150196 through 197.

69. Attached as **Exhibit 69** is a true and correct copy of a document produced in this litigation as Carey- EID-00158931 through 8933.

70. Attached as **Exhibit 70** is a true and correct copy of a document produced in this litigation as Carey- EID-00158936 through 8954.

71. Attached as **Exhibit 71** is a true and correct copy of a document produced in this litigation as AFFF-MDL-EID-00297688 through 7690.

72. Attached as **Exhibit 72** is a true and correct copy of a document with a bates stamp number EID079423 through 424, dated 12/14/1981.

73. Attached as **Exhibit 73** is a true and correct copy of a document produced in this litigation as DEFENDANT EIDP, INC.'S RESPONSES TO PLAINTIFF CYNTHIA FAIRCLOTH'S FIRST SET OF REQUESTS FOR ADMISSION, dated May 18, 2023.

74. Attached as **Exhibit 74** is a consolidation of declarations from Plaintiffs.

75. Attached as **Exhibit 75** is a true and correct copy of DEFENDANT EIDP, INC.'S RESPONSES TO PLAINTIFF ALLISON PINI'S FIRST SET OF REQUESTS FOR ADMISSION, dated May 18, 2023.

76. Attached as **Exhibit 76** is a true and correct copy of DEFENDANT EIDP, INC.'S RESPONSES TO PLAINTIFFS JOHN AND ANNIE MERLE STEVENS' FIRST SET OF REQUESTS FOR ADMISSION, dated May 18, 2023.

77. Attached as Exhibit **77** is a true and correct copy of DEFENDANT EIDP, INC.'S RESPONSES TO PLAINTIFFS PAUL AND SOCORRA ABRIL'S FIRST SET OF REQUESTS FOR ADMISSION, dated May 18, 2023.

78. Attached as Exhibit **78** is a true and correct copy of DEFENDANT EIDP, INC.'S RESPONSES TO PLAINTIFF SANDRA RIGGINS BRANCH'S FIRST SET OF REQUESTS FOR ADMISSION, dated May 18, 2023.

79. Attached as Exhibit **79** is a true and correct copy of DEFENDANT EIDP, INC.'S RESPONSES TO PLAINTIFFS PATSY AND RICHARD DAVIS' FIRST SET OF REQUESTS FOR ADMISSION, dated May 18, 2023.

80. Attached as **Exhibit 80** is a true and correct copy of DEFENDANT THE CHEMOURS COMPANY AND CHEMOURS FC, LLC'S RESPONSES TO PLAINTIFFS PATSY AND RICHARD DAVIS' FIRST SET OF REQUESTS FOR ADMISSION, dated May 18, 2023.

81. Attached as **Exhibit 81** is a true and correct copy of the expert report of Adam M. Domanski, Ph.D., Plaintiffs' expert, dated July 25, 2023.

82. Attached as **Exhibit 82** is a true and correct copy of the expert report of Steven LaRosa, Plaintiffs' expert, dated July 25, 2023.

83. Attached as **Exhibit 83** is a true and correct copy of Plaintiff Cynthia Faircloth's Objections and Responses to Defendant The Chemours Company's First Set of Interrogatories.

84. Attached as **Exhibit 84** is a true and correct copy of Plaintiff Allison Pini's Objections and Responses to Defendant The Chemours Company's First Set of Interrogatories.

85. Attached as **Exhibit 85** is a true and correct copy of Plaintiff Sandra Riggins Branch's Objections and Responses to Defendant The Chemours Company's First Set of Interrogatories.

86. Attached as **Exhibit 86** is a true and correct copy of Plaintiffs John & Annie Merle Stevens' Objections and Responses to Defendant The Chemours Company's First Set of Interrogatories.

87. Attached as **Exhibit 87** is a true and correct copy of Plaintiffs Paul and Socorra Abril's Objections and Responses to Defendant The Chemours Company's First Set of Interrogatories.

88. Attached as **Exhibit 88** is a true and correct copy of Plaintiffs Pat & Richard Davis's Objections and Responses to Defendant The Chemours Company's First Set of Interrogatories.

89. Attached as **Exhibit 89** is a true and correct copy of "Fay Residential Sample Results Received Jan 29 – Feb 4, 2024." provided by Chemours to DEQ.

The map can be accessed on DEQ's website at <https://edocs.deq.nc.gov/WasteManagement/DocView.aspx?id=1829708&dbid=0&repo=WasteManagement>.

90. Attached as **Exhibit 90** is a true and correct copy of the expert report of Defendants' expert, Brent L. Finley, Ph.D., DABT, dated September 19, 2023.

91. Attached as **Exhibit 91** is a true and correct copy of the surrebuttal expert report of Defendants' expert, Brent L. Finley, Ph.D., DABT, dated September 19, 2023.

92. Attached as **Exhibit 92** is a true and correct copy of "EPA's Human Health Human Health Toxicity Values for Hexafluoropropylene Oxide (HFPO) Dimer Acid and Its Ammonium Salt (CASRN 13252-13-6 and CASRN 62037-80-3) Also Known as 'GenX Chemicals,'" which is Exhibit 4 to the deposition of Dr. Brent Finley.

93. Attached as **Exhibit 93** is a true and correct copy of "Development of an oral reference dose for the perfluorinated compound GenX," by Thompson et al, published in the Wiley Journal of Applied Toxicology in 2019. This document is Exhibit 3 to the deposition of Dr. Brent Finley.

94. Attached as **Exhibit 94** is a true and correct copy of "RESPONSE TO ADDITIONAL FOCUSED EXTERNAL PEER REVIEW OF DRAFT HUMAN HEALTH TOXICITY VALUES FOR HEXAFLUOROPROPYLENE OXIDE

(HFPO) DIMER ACID AND ITS AMMONIUM SALT (GENX CHEMICALS),” by U.S. Environmental Protection Agency, dated October 2021. This document is Exhibit 5 to the deposition of Dr. Brent Finley.

95. Attached as **Exhibit 95** is a true and correct copy of EPA’s “INTERIM Drinking Water Health Advisory: Perfluorooctanoic Acid (PFOA) CASRN 335-67-1.”

96. Attached as **Exhibit 96** is a true and correct copy of a document from NCDEQ relating to its NCDEQ Risk Calculator titled, “What’s New.” The document is located at <https://www.deq.nc.gov/waste-management/dwm/sf/risk-based-remediation/whats-new-deq-risk-calculator-july-2023/download?attachment>. (last accessed 2/11/2024).

97. Attached as **Exhibit 97** is a true and correct copy of “ORD Human Health Toxicity Value for Perfluoropropanoic Acid” by U.S. Environmental Protection Agency, dated June 2023. This document is Exhibit 8 to the deposition of Dr. Brent Finley.

98. Attached as **Exhibit 98** is a true and correct copy of “Defendants The Chemours Company and The Chemours Company FC, LLC’s Supplemental Answers to Plaintiffs John and Anne Stevens’ First Set of Interrogatories” and “Defendant EIDP, Inc.’s Supplemental Answers to Plaintiffs John and Anne Stevens’ First Set of Interrogatories.”

99. Attached as **Exhibit 99** is a true and correct copy of “Defendants The Chemours Company and The Chemours Company FC, LLC’s Supplemental Answers to Plaintiff Allison Pini’s First Set of Interrogatories” and “Defendant EIDP, Inc.’s Supplemental Answers to Plaintiff Allison Pini’s First Set of Interrogatories.”

100. Attached as **Exhibit 100** is a true and correct copy of “Defendants The Chemours Company and The Chemours Company FC, LLC’s Supplemental Answers to Plaintiff Cynthia Faircloth’s First Set of Interrogatories” and “Defendant EIDP, Inc.’s Supplemental Answers to Plaintiff Cynthia Faircloth’s First Set of Interrogatories.”

101. Attached as **Exhibit 101** is a true and correct copy of “Defendants The Chemours Company and The Chemours Company FC, LLC’s Supplemental Answers to Plaintiffs Patsy and Richard Davis’s First Set of Interrogatories” and “Defendant EIDP, Inc.’s Supplemental Answers to Plaintiffs Patsy and Richard Davis’s First Set of Interrogatories.”

102. Attached as **Exhibit 102** is a true and correct copy of “Defendants The Chemours Company and The Chemours Company FC, LLC’s Supplemental Answers to Plaintiff Sandra Riggins Branch’s First Set of Interrogatories” and “Defendant EIDP, Inc.’s Supplemental Answers to Plaintiff Sandra Riggins Branch’s First Set of Interrogatories.”

103. Attached as **Exhibit 103** is a true and correct copy of “Defendants The Chemours Company and The Chemours Company FC, LLC’s Supplemental Answers to Plaintiffs Paul and Socorra Abril’s First Set of Interrogatories” and “Defendant EIDP, Inc.’s Supplemental Answers to Plaintiffs Paul and Socorra Abril’s First Set of Interrogatories.”

DATED: February 12, 2024

Respectfully submitted,

/s/ Brett Land

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CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

Dated: February 12, 2024

/s/ Brett Land

Brett Land